

**Statement of Karl A. Racine  
Attorney General for the District of Columbia**

**Before the**

**Committee on the Judiciary  
Kenyan McDuffie, Chairperson**

**Office of the Attorney General  
Performance Oversight Hearing  
FY 2015 to FY 2016**



**Office of the Attorney General  
for the District of Columbia**

**February 18, 2016**

**10:00am  
Room 120  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, District of Columbia**

Good morning Chairman McDuffie, Councilmembers, and staff. I am Karl A. Racine, and I have the privilege of serving as Attorney General for the District of Columbia. I am honored to have this opportunity to report on the accomplishments of the Office of the Attorney General (OAG) for Fiscal Year 2015 and Fiscal Year 2016 to date. I want to thank you, your fellow Committee members, and Committee staff for being exceptional partners in many of our successes during this reporting period. And the year has been a true success. First of all, OAG provides a huge return for every dollar invested. OAG's approved budget for FY 2016 is \$84,246,129. As you will see in more detail throughout my testimony, OAG attorneys and staff accounted for well over \$500 million in savings and revenue for the District this past year. Moreover, I testified last year that I was building a culture within OAG to advance our primary duties to uphold the public interest and provide independent and objective legal services to the Mayor, Council, District agencies, and the residents of the District of Columbia. Because of your support and the tireless efforts of OAG's attorneys and staff, we are accomplishing that goal every day. In fact, with your continued support OAG is determined to be the best public interest law firm in the country.

My testimony today will consist of three parts. First, I will highlight the exemplary work of our attorneys and support staff from each of our divisions and offices. Second, I want to update the Council and the public on our ongoing community outreach efforts. And, finally, I will take some time to share some of OAG's specific initiatives and priorities.

## **I. Office of the Attorney General Divisions Report**

I am pleased to report that OAG had a very successful FY 2015-2016 performance year.

Let me share just a few of the highlights from our divisions, the Office of the Solicitor General, and our newly created Office of Consumer Protection.

### Public Safety Division

OAG's Public Safety Division (PSD) prosecutes all of the District's juvenile cases as well as some misdemeanor adult cases. Our Juvenile Section processes thousands of cases a year in Family Court, while our Criminal Section handles some 14,000 adult cases per year—including cases involving impaired driving, weapons violations, and other crimes. PSD also assists victims of crimes and improves the quality of life in neighborhoods across the District by fighting neighborhood nuisances. In addition, PSD now has the added responsibility of protecting some of the District's most vulnerable citizens: victims of domestic violence; adults who are being abused, neglected, and exploited; and mentally ill adults who need emergency psychiatric care. The division continues to work to raise the quality of life in the District.

#### *Public Safety Division Highlights*

- PSD has established the *Emerging Drug Trends Task Force* (EDT Task Force) in response to the resurgence of heroin abuse and increasing problems related to synthetic cannabinoids and other drugs in the District. The EDT Task Force analyzes and coordinates OAG's response to emerging drugs and drug-use trends in the District. It combats new and existing drug trends in the District using a multi-pronged, multi-disciplinary approach, including researching drug trends, working with local and federal partner agencies to coordinate efforts and share information, providing education and outreach to affected communities and groups, and studying best practices from other jurisdictions. This year, for instance, the EDT Task Force partnered with the Drug Enforcement Administration to produce and offer an educational webinar about the dangers of synthetic drugs and how convenience store owners and operators can help combat the spread of these deadly substances.

- OAG has introduced proposed legislation that would constitute one of the nation’s most comprehensive synthetic drug statutes. The Synthetics Abatement and Full Enforcement Drug Control Act of 2015 (“SAFE DC”) strengthens law enforcement officials’ ability to test for and prosecute cases against sellers and distributors of synthetic cannabinoids and synthetic cathinones. The bill achieves this by adding these drugs to the District’s schedule for controlled substances based on the *class* of the chemical compounds contained in the drugs rather than the *individual* compound found in a particular substance. The bill, if passed by the Council, will 1) minimize the necessity of enumerating specific synthetic drug compounds on Schedule I of the District of Columbia’s Controlled Substances List; 2) make laboratory testing for synthetic cannabinoids and synthetic cathinones more efficient; and 3) ensure that law enforcement will no longer need to rely on an impractical controlled-substances-analogue statute to prosecute synthetic drug cases.
- Attorneys in the Neighborhood and Victim Services Section (NVS) undertook a comprehensive strategy to shut down a number of retailers who continued to sell and distribute synthetic cannabinoids to District residents. NVS filed a complaint against the owners of 3661 Georgia Avenue, NW under the District’s drug-nuisance laws; issued Notices of Unlawful Activity against the owners of 1109 Bladensburg Road, NE, 800 Upshur Street NW, and 3653 Georgia Avenue, NW because of repeated instances of selling synthetic drugs; and filed a drug-nuisance suit against the owner of Aida’s Electronics at 209 Florida Avenue NW in Ward 5. In each of the cases, agreements or judgments have been reached that will either close the store for the long term or ensure that synthetic drugs are no longer sold there.
- Recently, NVS secured a judicial order compelling the owners of VIP Therapy, Inc., owners and operators of a notorious Dupont Circle brothel, to pay the District nearly \$3.3 million, depriving them of the profits they received from their illegal activity. NVS attorneys successfully argued for the ruling, which marks the first time that a judge has ordered a defendant sued under the District’s Drug, Firearm, or Prostitution-Related Nuisance Abatement Act to relinquish their illegal revenues—a remedy known as income disgorgement—to the District. The ruling ensures that the defendants do not benefit from their illegal activities and helps to prevent the recurrence of those activities.
- During FY2015, PSD committed to informing the public about the potential public safety issues posed by nuisance properties of all types and leading the efforts to abate these nuisances. In carrying out this responsibility, Neighborhood and Victim Services Section attorneys actively participated in 167 community meetings, averaging almost 14 meetings per month.
- In December 2015, PSD established a new unit, the Juvenile Specialty Court Unit (JSCU), to more comprehensively focus on possible solutions to the District’s truancy, runaway and human trafficking problems.

- PSD is focused on implementing a Restorative Justice Conferencing model to reduce the number of cases brought to OAG for prosecution from schools for low-level offenses and interrupt the school-to-prison pipeline. Restorative Justice Conferencing engages the offender and victim of the conflict, along with their parents and teachers, in a dialogue to address the root of the problem and come to an acceptable agreement to repair the harm. As an example, OAG has launched an innovative pilot program at Ballou Senior High School to offer mediations at school as an alternative to arresting youth. OAG also used this model to resolve a juvenile prosecution involving a “flashmob” theft and destruction of property case. OAG brought together the owners of the store, the youth offenders, and their parents and guardians in order to reach an agreement that restored a measure of dignity to the victims and educated the youth about the consequences of their actions. All participants felt that the Restorative Justice Conference will be a substantial factor in keeping the involved youth out of the juvenile justice system.
- Because juvenile justice reform has been a top priority for OAG, the Juvenile Section has increased its rate of diversion of low-risk youth to the Alternatives to Court Experience (ACE) diversion program operated by the Department of Human Services. These diverted youth receive substantial rehabilitative care and services, including mental health treatment, family therapy, mentoring, and substance abuse treatment, all of which are recognized prevention-based services that keep youth out of trouble. OAG is actively monitoring the outcomes of the youth who have been diverted, and as of December 2015, youth referred ACE have an extremely high 87% success rate for non-recidivism.
- This past year the Juvenile Section also tackled the nationally recognized issues of courtroom shackling of youth, which data shows unnecessarily humiliates and stigmatizes them and runs counter to the rehabilitative ideals of the juvenile court. OAG worked closely with Councilmember Kenyan McDuffie and Superior Court Chief Judge Lee Satterfield to end the practice of indiscriminate shackling of youth in Superior Court delinquency courtrooms through a Superior Court Administrative Order. The Juvenile Section has tracked the implementation of the Administrative Order, and has found that most juvenile courtrooms now hold individualized determinations of safety and flight risk, and approximately 80% of youth are left unshackled in court. There has been virtually no change in the safety of the courtrooms, with no increase in instances of flight or disruption.
- In March 2015, attorneys from the Criminal Section discovered that a problem existed with the ILEADS computer software program used by MPD in processing and documenting arrests and criminal incidents in the District. Apparently, the ILEADS program was not completely populating all vital arrest information in a form that could be properly disclosed to the parties involved in criminal prosecutions. Criminal Section attorneys conducted a post-conviction review of more than 10,000 OAG prosecuted cases to ensure fairness in criminal prosecution. Criminal Section attorneys led this effort by keeping the Court and other stakeholders aware of the issue, the post-conviction review, and the implications of the issue for pending cases. OAG also advised MPD on the matter through regular communication and notification.

## Public Interest Division

The Public Interest Division (PID) represents the District of Columbia in challenges to the government's authority to act in the best interests of its citizens. PID prosecutes on behalf of and defends the District of Columbia, and its agencies, and its officials in a variety of civil and administrative actions brought by and against the District.

### *Public Interest Division*

- As part of its ongoing mission to recover monies owed to the District of Columbia, in FY 2015, the Civil Enforcement Section (CES) recovered over \$5 million for the District. Notably, approximately \$2.5 million was recovered from individuals who were unlawfully receiving Medicaid benefits from the District. OAG also recovered approximately \$124,000 from individuals who unlawfully received unemployment benefits from the District's Department of Employment Services Unemployment Compensation Program.
- Additionally, as part of its mission to assist in protecting the District's citizens, CES worked in FY 2015 with the Metropolitan Police Department and the Alcoholic Beverage Regulation Administration to temporarily close three District nightclubs where five stabbings, including one fatality, occurred. Once the nightclubs were closed, CES attorneys worked with the nightclubs' ownership and management to develop or enhance their security plans so that the clubs could re-open with a safe environment for patrons.
- The Government Contracts Section successfully defended five contract matters in FY 2015, receiving favorable judgments on behalf of the District of Columbia. The total savings for the District in these cases was \$1,540,758.52.
- OAG successfully defended the District when the House of Representatives Committee on Oversight and Government Reform believed that Initiative 71—which passed by the voters of the District in November 2014 and legalized possession of small amounts of marijuana—was invalid. OAG was responsible for coordinating the Executive's response and overseeing the production of over 20,000 pages of documents.
- The lead Budget Autonomy Act case, *Council of the District of Columbia v. DeWitt*, challenging the validity of the Budget Autonomy Act, was fully briefed as of early December 2015 and awaits a decision (or the scheduling of a hearing).
- OAG won a \$14.9 million settlement in June to resolve the District's contract and fraud claims against its provider of student food services. Division attorneys had filed a complaint-in-intervention in a case brought by a former DCPS employee under the whistleblower provisions of the District's False Claims Act. The settlement also included

an additional \$5 million for nonprofits that work on behalf of the District's public school students.

- OAG represented the District in negotiations with Exelon Corporation and Pepco Holdings over conditions for allowing their proposed merger to go forward. In October the negotiations produced an agreement that would provide for \$72.8 million in benefits for District residents and an additional \$5.2 million to support job-training programs. Months earlier, OAG attorneys helped persuade the Public Service Commission to reject the Exelon-Pepco merger as originally proposed, setting the stage for the negotiations that followed.
- OAG has recently won several rulings against the owners of Park Southern Apartments that will improve the lives of residents. The rulings pave the way for sale of the building, providing the resources required to remedy problems stemming from mismanagement. The rulings come in a lawsuit OAG filed against the owners alleging serious mismanagement of the building, which has the potential to provide up to 350 units of quality affordable housing for low-income residents at 800 Southern Avenue, SE.

### Civil Litigation Division

The Civil Litigation Division (CLD) defends the District of Columbia, its officials, and its employees in a broad spectrum of civil litigation. CLD has primary responsibility for representing the District of Columbia in hundreds of civil lawsuits that seek monetary damages. These lawsuits include claims of employment discrimination, constitutional torts, and personal injury. In these cases, CLD attorneys appear in the local and federal courts before judges and juries. Many of our civil litigation cases are still active at either the trial or appeal stage. Therefore, to preserve confidentiality and privilege, only a few examples of our successes are included in this submission.

#### *Civil Litigation Division Highlights*

- The Civil Litigation Division handled approximately 600 cases in FY 2015. In cases handled by our Civil Litigation Division and the Equity Section of the Public Interest Division in FY 2015, OAG won 196 of the 217 cases that were decided on motion or at trial, a success rate of over 90 percent.
- OAG handles a variety of common law claims. For example, CLD successfully defended the District in *Senior Dwelling, Inc. v. District of Columbia*. Several city agencies made a series of unannounced visits and inspections of a rooming house located in the District to

check on the welfare of the occupants, most of whom were elderly and disabled. These visits occurred during a time when there were two deaths at the rooming house. The District found multiple violations of District code and revoked the facility's certificates of occupancy. The facility sued the District, contending that the visits and investigations were done to intentionally and tortiously interfere with its business relationships. Following trial, a Superior Court jury returned a verdict for the District.

- OAG defends the District and its employees in potentially costly employment cases. For example, the District and three individually-named MPD officials prevailed in a trial where the plaintiff alleged he was demoted because he was a whistleblower. After almost two weeks of trial, the court dismissed one defendant as a matter of law, and the jury returned a verdict for the other defendants, finding that the plaintiff did not make a protected disclosure and was not a whistleblower.
- OAG also handles highly complex constitutional tort cases. For example, the District prevailed at trial in a federal case where the plaintiff alleged violation of his First and Fourth Amendment rights. A jury returned a verdict for the District, finding that the plaintiff had not been falsely arrested and he was not denied his right to freedom of speech.

The successes of our OAG divisions are evident not only in win-loss statistics, but also in terms of dollars saved for the District. In this performance period, we resolved hundreds of suits where the total demand against the District was approximately \$583 million.<sup>1</sup> As a result of motions, settlements and trials, we resolved all of these actions for approximately \$12.4 million, or 2.17 percent of the claimed damages, resulting in claimed liability avoided of approximately \$571 million. Although justice cannot be measured in terms of dollars and cents, it should be clear from the record that OAG is a more than sound investment for the District.

### Commercial Division

The Commercial Division provides comprehensive legal advice and transactional support in core areas of community and economic development, real estate, property acquisition,

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<sup>1</sup> The \$583 million figure is much lower than the actual total amount claimed in the lawsuits that were resolved in FY 2015, which was \$3.13 billion. However, this \$3.1 billion figure included eight highly inflated demands that claimed a total of \$2.547 billion, but did not, in our view, present a substantial threat of liability. When these demands were disregarded, the total amount claimed is approximately \$583 million. Additionally, this amount differs from the amount included in OAG's FY 2017 budget submission. OAG will reconcile the difference and report to the Committee.

procurement, tax and finance, bankruptcy, land use, and public works. This broad portfolio means that the division provides critical assistance to District officials and agencies at virtually every stage of major government projects.

### *Commercial Division Highlights*

- The Commercial Division filed the eminent domain case to complete the assemblage of property to support the District’s soccer stadium project. The project will involve the construction and operation of a soccer stadium complex and the accompanying infrastructure, including parking, office, and transportation facilities, in order to promote the recreation, entertainment, and enjoyment of the public. The project will also promote economic development in the Buzzard Point and Capitol Riverfront neighborhoods and enhance economic vitality in the District of Columbia.
- The Commercial Division filed four eminent domain cases to assemble property and right-of-way easements for replacement and realignment of the aging South Capitol Street Bridge. Key project elements include: Building a new six-lane Frederick Douglass Memorial Bridge; creating a new traffic oval west of the Anacostia River that connects South Capitol Street, Potomac Avenue, and Q Street, SW; reconstructing South Capitol Street as a six-lane boulevard with an improved streetscape from the traffic oval to D Street, SE/SW, and an at-grade intersection at M Street, SE; and creating a new at-grade traffic oval east of the Anacostia River that connects South Capitol Street, Suitland Parkway, and Howard Road, SE.
- The Commercial Division coordinates with the Department of Housing and Community Development’s (DHCD) Property Acquisition & Disposition Division (PADD), Office of Tax and Revenue (OTR), and Department of Consumer and Regulatory Affairs (DCRA) on various abandoned and deteriorated property initiatives, including:
  - Project Trinidad, an interagency effort to target blighted properties in Trinidad. The Commercial Division has assisted with developing a list of target properties, determining strategies to remediate blighted properties, and coordinating efforts with the Executive.
  - Marshall Heights Project, a DHCD effort to target blighted properties in Marshall Heights. The Commercial Division has worked with DHCD Director’s office to develop a list of target properties and determine strategies to remediate properties.
- The Commercial Division provided critical assistance to the Zoning Commission as it completed its work on rules regulating “pop ups” in the R-4 District and rooftop penthouses. OAG worked closely with the Office of Planning in drafting the rules that were ultimately adopted by the Commission.

- The Commercial Division has also been working with the Department of Transportation on the District Plug project, a multi-year, \$1 billion power-line-undergrounding project to help prevent prolonged electric service outages during significant weather events, and the RFQ that will be issued as part of the H Street, NE Bridge Design-Build Project. In addition, the division has been providing advice on the proper structure for the next Information Technology System Argumentation solicitation and the administration of the District's health and human services access contract.
- The Commercial Division's Tax and Finance Section worked to retain \$64,787,120 against real property tax assessment refund claims; collected \$2,416,000 Public Financing Administrative Program Fees; successfully closed 300 Real Property Tax Assessment Court cases; and has been able to reduce its tax sale foreclosure caseload from 3,500 in FY 2014 to under 1,000. OAG was able to temporarily shift two FTEs to this section, which resulted in an additional \$13.5 million in recoveries for the District.
- The Commercial Division won the trial of *CHH Capital Hotel Partners, LP v. District of Columbia*, to sustain the District's \$13 million Real Property Tax Assessment of the Capital Hilton Hotel, thereby saving the District \$322,795 in tax revenue, and defeating the taxpayer's value-lowering Lennhoff Hotel Valuation Approach. The Court's findings also sustained District assessors as trial expert witnesses, thereby eliminating the need to retain and pay independent appraisers \$20,000 or more for trial expert reports and testimony.
- The Commercial Division negotiated and drafted contracts, trust indentures, and various other agreements to reduce District debt-service costs, fund District capital projects, and assist public charter schools and other corporate entities to acquire, construct, and improve campuses, office headquarters, and other capital projects.

#### Personnel, Labor and Employment Division

The Personnel, Labor and Employment Division (PLED) defends agencies in personnel-related matters such as suspensions, terminations for employee misconduct, and reductions-in-force in evidentiary hearings before the Office of Employee Appeals, Police Adverse Action Panels, and Fire Trial Boards. PLED also represents agencies in disability compensation matters where claims for disability benefits have been denied or terminated before the Office of Hearings and Adjudication of the Department of Employment Services. In addition, PLED is responsible for OAG's Hiring and Recruitment Program, Equal Employment and Diversity Program, Training and Professional Development, and Summer Intern Program.

### *Personnel, Labor and Employment Division Highlights*

- The Personnel and Labor Relations Section opened 477 new cases in FY 2015.
- In a matter involving DCPS and the Washington Teachers' Union, PLED saved the District hundreds of thousands of dollars by obtaining a stay in Superior Court of the Union's attempt to overturn the personnel actions of approximately 160 DCPS school employees, thereby preventing the matter from proceeding to an arbitrator.
- In several Metropolitan Police Department matters, PLED again saved the District hundreds of thousands of dollars by conducting an unprecedented hearing on reduction-in-force matters and prevailing on the merits.

### Family Services Division

The Family Services Division (FSD) works on behalf of the District's most vulnerable citizens: abused and neglected children. FSD works closely with the courts, social workers, and other District agencies to ensure the health, safety, and welfare of children in the District.

### *Family Services Division Highlights*

- FSD continues to successfully prosecute abuse and neglect cases in the District, with a success rate of 98.25 percent. Protecting children is one of OAG's core principles and purposes. It is imperative that OAG vigorously prosecutes these cases, and that we work with our partner agencies to monitor the success and outcomes of the young people we are charged with protecting.
- OAG's Family Services Division collaborated with the District's Child and Family Services Agency (CFSA) to reduce the number of children placed in foster care by increasing awareness and training on the community papering process. Community papering allows CFSA to initiate court proceedings for abuse and neglect cases while allowing children to remain in the home with their parent(s). Examples of cases that are appropriate for community papering include educational neglect and medical neglect, where emergency care is not needed, and cases where the parent has a substance abuse or mental health issue that is impacting parenting but imminent danger does not exist. OAG works closely with the CFSA social worker and the family to determine if community papering is appropriate. CFSA finds that whenever children can safely stay with their families in a monitored setting, the outcomes of success are higher. In FY 2014, there were 48 children included in community papering. In FY 2015, there were 74 children, which far exceeds the 10 percent goal previously set for the year.
- FSD partnered with the Public Safety Division to establish a *Human Trafficking Task Force*. Attorneys in these divisions are being trained on how to spot youth who may be sex-trafficked in the delinquency, truancy, and abuse and neglect systems. Additionally,

OAG legal work will be coordinated so that each youth identified as a trafficking victim will be referred for appropriate services and support. The attorneys also participate in monthly case-review meetings on sex trafficking with other District government agencies that serve youth in the juvenile justice and child protection systems, attend Superior Court-led Family Court Training sessions, lead a focus group with trafficking victims and survivors, consult with non-profit organizations in the District and surrounding jurisdictions to identify the best models of human trafficking-prevention education for students and school officials, and to go into school settings to present directly to youth.

### Child Support Services Division

The Child Support Services Division (CSSD) handles child support cases involving District children by locating absent parents, establishing parentage, establishing support orders, and establishing medical support. Also, CSSD is tasked with enforcing court-ordered child support payments and medical support and collecting child and spousal support payments.

#### *Child Support Services Division Highlights*

- In FY 2015, CSSD established 2,159 new court orders, a 6 percent increase over FY 2014 and a 24 percent increase over FY 2012. CSSD also completed several successful audits this fiscal year.
- CSSD collected \$450,658 through the Financial Institution Data Match (FIDM) program. Under FIDM, CSSD works with banks to collect child support from the accounts of parents who are past due in paying child support.
- For Child Support Awareness Month (August 2015), CSSD educated citizens about their rights and responsibilities related to child support and conducted outreach to community based organizations, including those that serve the homeless. In addition, as a part of its commitment to support parents' self-sufficiency and as a way to thank parents for their support of their children, CSSD distributed scarves and neckties (donated by OAG staff) to parents who are stepping up for their children.
- In FY 2016, CSSD will increase collections through innovative enforcement tools and a multi-pronged approach to increase collections. CSSD will fully implement the Child Support Lien Network so that it can collect child support payments with arrears from insurance and worker's compensation settlements. It will also enter agreements with District-based banks so that additional child support can be collected.

## Office of the Solicitor General

The Office of the Solicitor General (OSG) handles all litigation for the Office of the Attorney General in the appellate courts, including the District of Columbia Court of Appeals, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court of the United States. These cases include appeals from trial courts in a wide variety of civil and criminal matters and petitions for review from more than 50 District agencies.

### *Office of the Solicitor General Highlights*

- OSG continues to defend the interests of the District of Columbia in the appellate courts. It continues its astounding win rate of around 90 percent.
- Since last year's hearing, OSG has filed briefs and substantive motions or presented oral argument more than 200 times. Moreover, OSG also has provided advice to, and otherwise helped, trial divisions and agencies countless times (for instance, OSG's Criminal and Juvenile Appeals Section has reviewed more than 200 briefs to be filed in the Superior Court by the Public Safety Division).
- OSG has won numerous important cases during this reporting period, several of which deserve highlighting. In *Expedia v. District of Columbia*, OSG won the appeal in the \$70 million case involving hotel taxes not properly paid by online travel companies. In *Heller v. District of Columbia*, OSG won an appeal upholding the heart of the District's firearms registration system.
- OSG's other victories included: criminal matters upholding the Council's impaired-driving statutes against constitutional attack (*Christie v. District of Columbia*), and ensuring that prior impaired-driving incidents in Maryland are treated properly as "prior offenses" under those statutes (*Eaglin v. District of Columbia*); constitutional matters arising from many different factual scenarios, such as from police response to the OccupyDC protests (*Dukore v. District of Columbia*); civil matters, such as in OSG's defense of the District's actions relating to Greater Southeast Community Hospital (*UMC Development v. District of Columbia*); numerous personnel matters, such as in defense against unfounded retaliation claims related to the District's breath-testing program (*Rodriguez v. District of Columbia*); administrative law matters, such as in OSG's support of the Public Service Commission's decisions relating to the wire undergrounding project (*AOBA v. District of Columbia Public Service Commission*), and Rental Housing Commission decisions promoting fair treatment of tenants (*Levy v. District of Columbia Rental Housing Commission*); and other tax matters and matters involving protection of the public fisc, such as in a False Claims Act action in which nearly \$1 billion in penalties was demanded (*United States ex rel. Davis v. District of Columbia*).

- OSG also has been working diligently on other civil and criminal appeals that have not yet been decided. These include *U.S. Department of Labor v. District of Columbia*, concerning the application of the federal Davis-Bacon Act to the City Center project, which has ramifications for development throughout the District; and *American Council of Life Insurers v. District of Columbia Health Benefit Exchange Authority*, which concerns the legality of the Council's chosen mechanism for funding the District's health benefit exchange under the federal Patient Protection and Affordable Care Act.
- OSG also regularly consults with all the other litigating divisions about matters pending before the trial courts, both to share the expertise of its experienced lawyers and to help position cases before expected appeals.

### Office of Consumer Protection

Our newest office, the Office of Consumer Protection (OCP), was created this fiscal year. Its primary functions are investigating and bringing enforcement actions against businesses that commit unlawful trade practices that harm District consumers, mediating the consumer complaints it receives, supporting legislation that will protect District consumers, and performing consumer education and outreach so that consumers will be better able to protect themselves.

- OAG received more than 1,000 consumer complaints that we either mediated or referred to the appropriate government agency. It commenced or continued a wide variety of investigations.
- OAG brought a consumer protection enforcement case against a Virginia-based couple for flipping homes in the District after performing shoddy renovations using unlicensed contractors. In some cases, their unlawful renovation work threatened to undermine neighboring properties. The couple is now subject to a preliminary injunction halting their renovations and sales of homes in the District.
- An example of multi-state efforts the office pursues is the 28-state joint consumer protection investigation into Volkswagen. This followed disclosures that the German automobile company's Volkswagen and Audi diesel cars include software that circumvents Environmental Protection Agency (EPA) emissions testing.
- The Office of Consumer Protection is also continuing to prepare consumer education materials and performing consumer outreach.

## Legal Counsel Division

The Legal Counsel Division (LCD) provides legal advice to the Executive, District agencies, and the Council of the District of Columbia. The division also reviews draft legislation, rulemakings, Mayor's Orders, inter-agency MOAs/MOUs, contracts, and land dispositions for legal sufficiency; reviews all Council-enrolled bills that are presented to the Mayor; prepares legislation and rulemakings; and prepares opinions, legal memoranda, and letters.

### *Legal Counsel Division Highlights*

- LCD has reviewed 656 bills over the past year. It also reviewed 60 Mayor's Orders, 262 Rulemakings, and 9 interagency memoranda of understanding (MOUs/MOAs). Additionally, it provided formal legal advice in the form of memoranda or letters in response to 295 requests.
- LCD assisted both the Mayor and Council on issues related to the District's gun regulations. For example, it drafted the legislation and regulations needed to amend the District's firearms laws in the wake of the *Palmer* decision. OAG also prepared emergency and permanent bills to modify the concealed-carry-free zone around the White House and Vice President's mansion, acting as counsel to the Concealed Carry Licensing Review Board by assisting them in developing summary disposition hearing procedures and drafting proposed final orders of appeals.
- LCD played a role in assisting both the Mayor and Council in the development of body-worn camera legislation and regulations. Along with attorneys from OAG's Public Safety and Civil Litigation Divisions, LCD served on a stakeholders group that advised the Mayor on the contents of the laws and regulations and suggested substantive changes that were, for the most part, incorporated into the final legislation and regulations enacted by the Council.
- LCD has provided and is continuing to provide advice to the Executive and the Council on wage theft and other worker protection laws. It helped develop proposed modifications to existing laws to help workers who are suffering due to violations of those laws and to ensure that the government, in enforcing those laws, complies with the Supreme Court's decision last year regarding the government's authority to examine business records.
- LCD played a role in advising DCPS, the Mayor, and the Mayor's Office of Legal Counsel (MOLC) about legal issues related to the Empowering Males of Color Initiative, including potential constitutional challenges. LCD also assisted the Office of the State Superintendent of Education (OSSE), the State Board of Education, and the MOLC in

interpreting OSSE's scope of oversight in establishing standards for charter, public, and private schools.

- LCD provides ongoing advice to the ANCs on issues involving legal interpretations of statutes and other issues concerning or affecting the ANCs. It answers questions for ANCs about issues such as the operation of ANC meetings, the lawful use of ANC funds, and an ANC's right to be given notice and great weight with respect to government actions that affect neighborhood planning and development in its ANC area. It also provides legal advice to the District of Columbia Auditor on ANC issues. Also, in conjunction with the Office of Advisory Neighborhood Commissions and the Board of Ethics and Government Accountability, an LCD attorney played an important role in a training offered to all the ANC Commissioners.

### Support Services Division

The Support Services Division (SSD) serves as the infrastructure for OAG and provides administrative support to enable the agency to fulfill its legal responsibilities including: investigative services, operational support, agency financial management, emergency preparedness, and responses to queries or complaints from members of the public.

#### *Support Services Division Highlights*

- SSD completed renovation of OAG's moot courtroom training facility. The moot courtroom features trial and appellate courtrooms with audiovisual teleconferencing capabilities that may be used for presentations and training.
- SSD completed renovation of approximately 40,000 square feet of office space in the Child Support Services Division, including replacing outdated modular workstations, flooring and reception area furniture, as well as painting the entire suite.
- SSD processed over 150 procurements—most within seven days from the date of request—and served over 2,400 summons and subpoenas on witnesses and parties to OAG litigation.

## **II. Community Outreach**

Last year, I stated that OAG would be committed to engaging residents, community groups, advocates, and other stakeholders. Since the time of our last performance oversight

hearing, OAG representatives participated in well over 200 community meetings across every ward of our city.

OAG has also developed its own programming in key areas related to public safety. For instance, in January OAG launched our social media accounts (Twitter – @AGKarlRacine, Facebook – Attorney General Karl A. Racine, and Instagram – AGKarlRacine). As part of this launch, we started visiting schools to educate young people about using social media and other online resources responsibly and safely. OAG also began outreach efforts to schools to share with young people the importance of being positive peer role models and using conflict mediation tools to decrease violence, all with an eye toward promoting public safety.

In addition, last year OAG created a Labor Advisory Council to start a series of meetings and ongoing dialogue to better understand challenges facing organized labor. I was immediately impressed that everyone representing labor organizations was advocating not only for union members, but for all workers. Matters ranged from proposed wage theft enforcement issues to legal interpretations of existing laws affecting collective bargaining. OAG is also convening a Business Advisory Council to better address legal impediments that may face businesses in the District. We have found that the overwhelming majority of businesses in the District strive to be good actors and excellent neighbors. OAG wants to do everything within its power to ensure they are treated fairly in and by the city. We will continue to work with the Committee to ensure that residents, workers, and businesses have an OAG that has all the tools necessary to fairly enforce the law.

### **III. Highlighted Initiatives**

In almost every public appearance OAG makes, we share with residents our key priority areas. They are: Consumer Protection and Community Outreach; Affordable Housing Protection and Enforcement; Public Safety and Criminal Justice; and Protecting Taxpayers, Workers, and Enforcing Honest Government.

Indeed, just this week I introduced comprehensive legislation, which builds upon legislation introduced this year by Chairman Phil Mendelson and Councilmember Elissa Silverman, to address the last priority I mentioned, enforcing honest government. The “Campaign Finance Transparency and Accountability Amendment Act of 2016” is designed to 1) ensure that independent expenditures truly are independent of candidates and campaigns; 2) close a loophole allowing unlimited donations to a political action committee outside of election years; 3) strengthen disclosure requirements to increase transparency in the donations process; 4) sever any connection between contributions and business with the District; 5) limit a public official’s use of employees to solicit or accept contributions; and 6) require board and commission members to undergo ethics training. The bill accomplishes each of these reforms in a way that honors the protections of the First Amendment.

This bill builds on prior campaign finance proposals to sever the connection between contributions and significant business dealings with the District. It focuses on what it calls “doing business with the District.” This includes large contracts, large grants, large tax abatements, and agreements to acquire, sell, or lease land or a building—the type of

arrangements where the concern of pay-to-play corruption appears highest. Anyone who contributed to a candidate or elected official who could influence or award any of these types of businesses, to any political committee affiliated with that candidate or official, and to certain individuals or organizations closely tied to such a candidate or official, would be ineligible to engage in these types of high-value business with the District. The legislation also defines the term “coordination” broadly to ensure candidates are truly separated from Political Action Committees. This will ensure that independent expenditures are truly independent. Finally, the bill places stringent disclosure requirements on all independent expenditures to ensure that the public knows where money in politics is coming from.

With regard to public safety, the District is part of a vibrant region including our neighbors in Maryland and Virginia. I believe it is vital that some issues must be addressed regionally to ensure the best outcomes for our residents. One of these issues is the proliferation of illegal guns on our streets. I hosted my colleagues and friends, Virginia Attorney General Mark R. Herring and Maryland Attorney General Brian E. Frosh, for a first-of-its-kind meeting to discuss opportunities for collaboration and cooperation to prevent and reduce gun violence in the national capital region. This was the first time we have held a joint meeting, and the first time the chief legal officers of the District of Columbia, Virginia, and Maryland have ever met to discuss gun violence prevention.

During the hour-long meeting, each attorney general discussed ongoing efforts in their offices and states to reduce the availability of illegal guns, to prevent guns from getting into the

hands of criminals and dangerous individuals, and to reduce gun violence. Each attorney general committed to designating a point person from his office who will work with counterparts in the other states to establish a timeline and structure for regular interaction and sharing strategies, criminal information, and opportunities to collaborate on initiatives that will prevent gun violence in the national capital region.

I want to end with an issue that is at the very core of OAG's charge to uphold the public interest and, in particular, to protect and advocate for residents in dire need. On January 8, 2016, OAG filed a complaint against Sanford Capital, the owner of four rental properties in the Congress Heights neighborhood of Ward 8. Each of the four rental properties suffers from a demonstrated history of neglect and indifference resulting from the actions or omissions of the Respondents. This includes rodent infestation, lack of heat, lack of air conditioning, severe mold, inoperable fire alarms, mounds of trash, and an overall state of disrepair. The refusal of the Respondents to abate their housing code violations in a timely manner is particularly egregious given that many of their tenants have modest financial means and therefore lack viable alternatives to these unsafe and unhealthy rental accommodations.

Working with the Washington Legal Clinic for the Homeless and other strong advocates, our attorneys stepped in to put a stop to this abhorrent situation and to ensure the residents are afforded the dignity to live in accommodations that are affordable, safe, and habitable. It is reported that the lure of a new market-rate development was a motive for the Respondents to neglect the property in order to force the remaining residents out, thus negating any Tenant Opportunity to Purchase Act rights they may have. If this is the case, OAG will continue to

pursue the property owners in this case, and any other case like it, to the fullest extent of our legal authority.

As we move forward, I want to ensure that our legal teams have the necessary authority, capabilities, and capacity to aggressively pursue these types of slumlords, as well as people who financially exploit our seniors, defraud and scam consumers, and short-change workers in our city. As you consider OAG's funding, remember that OAG is not funded to sustain the level of services that residents expect and deserve. OAG is still funded as if it were a subordinate agency with a narrow Executive function. But OAG is now charged with promoting and protecting the public interested in an independent manner. Engaging with the community and aggressively protecting District residents, workers, and businesses is an OAG mandate. It is only because of our tremendous team of attorneys, staff, and our excellent OAG union partners that our current successes are possible. However, they need support. Understanding last year's budget challenges, OAG proposed an innovative way to fund vital services that did not require increased budget allocation. Chairman McDuffie, thanks to your advocacy we were able to get a small fund to assist with some urgently needed litigation costs. I hope you will keep in mind the tremendous contribution the OAG team makes to the District as you consider further resource needs.

Thank you for the opportunity to highlight some of the important work of the Office of the Attorney General. We are committed to providing the District with the highest quality legal services and promoting the public interest. It is an honor and privilege to serve the residents as the first elected Attorney General. My team and I are pleased to answer any questions that the members of the Committee may have. Thank you.